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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/441,102	11/16/1999	DAVID A. SCHWARTZ	062891.0285	3856

7590   08/13/2004

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EXAMINER
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ART UNIT	PAPER NUMBER
2667	

DATE MAILED: 08/13/2004

/3

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Office Action Summary	09/441,102	SCHWARTZ ET AL.
	Examiner	Art Unit	
	Kwang B. Yao	2667	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *20 May 2004*.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-59* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-59* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

Response to Arguments

1.   Applicant's arguments with respect to claims 1-23, 25-59 have been considered but are

moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

2.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999

(AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002

do not apply when the reference is a U.S. patent resulting directly or indirectly from an

international application filed before November 29, 2000. Therefore, the prior art date of the

reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA

35 U.S.C. 102(e)).

3.   Claims 1-8, 10-19, 21-23, 25-29, 31-39, 41-49, 51-57, 59 are rejected under 35

U.S.C. 102(e) as being anticipated by Brown et al. (US 6,747,995).

Brown et al. discloses a system for multiple voice lines comprising the following

features: as depicted in Fig. 2, regarding claim 1, a backplane (202); a plurality of Backplane

plane cards (LINE CARD 1, 2, ..., 8) coupled to the backplane (202), each backplane plane card

(200) assigned a Media Access Control MAC address; and a backplane switch (201) coupled to

the backplane (202) and operable to receive a first data packet with a first MAC address assigned

(column 10, line 66 to column 11, line 5) to a backplane plane card (200) and to communicate

the first data packet to the backplane plane card (200) assigned the first MAC address using the

backplane (202); regarding claim 2, wherein the backplane switch (201) communicates the first

data packet to the backplane plane card (200) according to an Ethernet protocol (column 13, lines

52-57); regarding claim 3, wherein the backplane switch (201) is further operable to receive a

second data packet with a second MAC address assigned (column 10, line 66 to column 11, line

5) to an external network device and to communicate the second data packet to the network

device assigned the second MAC address; regarding claim 4, wherein the backplane switch (201)

communicates the second data packet to the network device assigned the second MAC address

by communicating the second data packet from an external port to a network switch for further

communication to the network device; regarding claim 5, wherein the backplane (202) includes a

plurality of backplane buses (202) , at least one of the backplane buses (202) providing a

dedicated bandwidth between a backplane plane card (200) and the backplane switch (201) ;

regarding claim 6, wherein at least one backplane plane card (200) is a gateway card coupled to a

telephone network, the gateway card operable to receive from the telephone network a request to

establish a telephone call with an external network device, to identify an Internet Protocol IP

address (column 10, lines 17-31) associated with the network device, to process data from the

telephone call into digital data packets, to associate the data packets with the identified IP

address (column 10, lines 17-31), and to communicate the data packets to the external network

device using the backplane switch (201) ; regarding claim 7, wherein the external network device

is an IP telephone; regarding claim 8, the gateway card is further operable to determine that the

data packets include voice information and, in response, to assign a high priority (column 4, line

63 to column 5, line 9; column 6, lines 20-25 and lines 50-53) level to the data packets by setting

one or more priority (column 4, line 63 to column 5, line 9; column 6, lines 20-25 and lines 50-

53) bits in each of the data packets; and the backplane switch (201) is further operable to

communicate the data packets according to the assigned priority (column 4, line 63 to column 5,

line 9; column 6, lines 20-25 and lines 50-53) level; regarding claim 10, wherein at least one

backplane plane card (200) is a gateway card coupled to a data network, the gateway card

operable to receive data packets associated with an Internet Protocol IP address (column 10, lines

17-31) and to communicate the data packets to an external network device assigned the

associated IP address (column 10, lines 17-31) using the backplane switch (201) ; regarding

claim 11, wherein at least one of the Backplane plane cards (LINE CARD 1, 2, ..., 8) may be

coupled to the backplane (202) and de-coupled from the backplane (202) while the

communications device continues to operate; regarding claim 12, receiving, at the backplane

switch (201) coupled to the backplane (202), a first data packet with a first Media Access

Control MAC address assigned (column 10, line 66 to column 11, line 5) to one of the Backplane

plane cards (LINE CARD 1, 2, ..., 8) coupled to the backplane (202); and communicating the

first data packet from the backplane switch (201) to the backplane plane card (200) assigned the

first MAC address using the backplane (202); regarding claim 13, wherein communicating the

first data packet from the backplane switch (201) to the backplane plane card (200) further

comprises using an Ethernet protocol (column 13, lines 52-57); regarding claim 14, receiving at

the backplane switch (201) a second data packet with a second MAC address assigned (column

10, line 66 to column 11, line 5) to an external network device; and communicating the second

data packet from the backplane switch (201) to the network device assigned the second MAC

address; regarding claim 15, wherein communicating the second data packet from the backplane

(202) device to the network device assigned the second MAC address comprises: communicating

the second data packet from an external port of the backplane switch (201) to a network switch;

and communicating the second data packet from the network switch to the external network

device assigned the second network address; regarding claim 16, providing a dedicated

bandwidth between the backplane switch (201) and at least one of the Backplane plane cards

(LINE CARD 1, 2, ..., 8) using a backplane bus (202) ; regarding claim 17, receiving from a

telephone network a request to establish a telephone call with an external network device;

identifying an Internet Protocol IP address (column 10, lines 17-31) associated with the external

network device; processing data from the telephone call into digital data packets; associating the

data packets with the identified IP address (column 10, lines 17-31); and communicating the data

packets to the external network device using the backplane switch (201) ; regarding claim 18,

wherein the external network device is an LP telephone; regarding claim 19, determining

whether the data packets include voice information; and assigning a high priority (column 4, line

63 to column 5, line 9; column 6, lines 20-25 and lines 50-53) level to the data packets by setting

one or more priority (column 4, line 63 to column 5, line 9; column 6, lines 20-25 and lines 50-

53) bits in each of the data packets in response to determining that the data packets include voice

information; regarding claim 21, receiving at a backplane plane card (200) a second data packet

from a data network; identifying an Internet Protocol IP address (column 10, lines 17-31)

associated with the second data packet; communicating the second data packet to an external

network device assigned the IP address (column 10, lines 17-31) using the backplane switch

(201) ; regarding claim 22, wherein at least one of the Backplane plane cards (LINE CARD 1, 2,

..., 8) may be coupled to the backplane (202) or de-coupled from the backplane (202) while the

communications device continues to operate; regarding claim 23, a backplane plane card (200)

assigned a first Media Access Control MAC address and coupled to a backplane (202) within a

communications device, the card comprising: an internal interface coupled to a backplane bus

(202) ; a communication module operable to receive a first data packet from the backplane bus

(202) using the internal interface if the first data packet's destination address corresponds to the

first MAC address, the communication module further operable to communicate a second data

packet to another backplane plane card (200) by associating the second data packet with a second

MAC address assigned (column 10, line 66 to column 11, line 5) to the other backplane plane

card (200) and communicating the second data packet to the backplane bus (202) using the

internal interface; regarding claim 25, wherein the communication module receives the first data

packet from the backplane bus (202) and communicates the second data packet to the backplane

bus (202) according to an Ethernet protocol (column 13, lines 52-57); regarding claim 26,

wherein the backplane bus (202) provides a dedicated bandwidth between the backplane plane

card (200) and a backplane switch (201) (201) ; regarding claim 27, wherein the communication

module is further operable to communicate a third data packet to a network device external to the

communications device by associating the third data packet with a third MAC address assigned

(column 10, line 66 to column 11, line 5) to the network device and communicating the third

data packet to the backplane bus (202) using the internal interface; regarding claim 28, an

external port coupled to a telephone network, the external port operable to receive from the

telephone network a request to establish a telephone call with a network device external to the

communications device; and wherein the communication module is further operable to identify

an Internet Protocol IP address (column 10, lines 17-31) associated with the external network

device, to process data from the telephone call into digital data packets, and to communicate the

data packets to the external network device using the backplane bus (202) ; regarding claim 29,

wherein the communication module is further operable to determine that the data packets include

voice information and, in response, to assign a high priority (column 4, line 63 to column 5, line

9; column 6, lines 20-25 and lines 50-53) level to the data by setting one or more priority

(column 4, line 63 to column 5, line 9; column 6, lines 20-25 and lines 50-53) bits in each of the

data packets; regarding claim 31, an external port coupled to a data network, the external port

operable to receive a data packet associated with an Internet Protocol IP address (column 10,

lines 17-31); and wherein the communication module is further operable to communicate the

data packet to a network device assigned the identified IP address (column 10, lines 17-31) using

the backplane bus (202) ; regarding claim 32, wherein the backplane plane card (200) may be

coupled to the backplane (202) and de-coupled from the backplane (202) while the

communications device continues to operate; regarding claim 33, a communications device,

comprising: a backplane (202); a plurality of Backplane plane cards (LINE CARD 1, 2, ..., 8)

coupled to the backplane (202); and a backplane switch (201) (201) coupled to the backplane

(202), the backplane switch (201) operable to receive a first data packet with a first network

address assigned to an external network device and a second data packet with a second network

address assigned to one of the Backplane plane cards (LINE CARD 1, 2, ..., 8), the backplane

switch (201) further operable to use a network protocol associated with the first and second

network addresses to communicate the first data packet to the external network device assigned

the first network address and to communicate the second data packet to the backplane plane card

(200) assigned the second network address, wherein the backplane switch (201) communicates

the second data packet to the backplane plane card (200) using the backplane (202); regarding

claim 34, wherein the network addresses are standard-based network addresses; regarding claim

35, wherein: the network addresses are Media Access Control MAC addresses; and the network

protocol is an Ethernet protocol (column 13, lines 52-57); regarding claim 36, wherein the

backplane (202) includes a plurality of backplane buses (202) , at least one of the backplane

buses (202) providing a dedicated bandwidth between the backplane switch (201) and one of

the Backplane plane cards (LINE CARD 1, 2, ..., 8); regarding claim 37, wherein at least one

backplane plane card (200) is a gateway card coupled to a telephone network, the gateway card

operable to receive from the telephone network a request to establish a telephone call with the

external network device, to identify an Internet Protocol IP address (column 10, lines 17-31)

associated with the external network device, to process data from the telephone call into digital

data packets, to associate the data packets with the identified IP address (column 10, lines 17-

31), and to communicate the data packets to the external network device using the backplane

switch (201) ; regarding claim 38, wherein the external network device is an IP telephone;

regarding claim 39, wherein: the gateway card is further operable to determine that the data

packets include voice information and, in response, to assign a high priority (column 4, line 63 to

column 5, line 9; column 6, lines 20-25 and lines 50-53) level to the data packets by setting one

or more priority (column 4, line 63 to column 5, line 9; column 6, lines 20-25 and lines 50-53)

bits in each of the data packets; and the backplane switch (201) is further operable to

communicate the data packets including voice information according to the assigned priority

(column 4, line 63 to column 5, line 9; column 6, lines 20-25 and lines 50-53) level; regarding

claim 41, wherein at least one backplane plane card (200) is a gateway card coupled to a data

network, the gateway card operable to receive data packets associated with an Internet Protocol

IP address (column 10, lines 17-31) and to communicate the data packets to an external network

device assigned the associated IP address (column 10, lines 17-31) using the backplane switch

(201) ; regarding claim 42, wherein at least one of the Backplane plane cards (LINE CARD 1, 2,

..., 8) may be coupled to the backplane (202) and de-coupled from the backplane (202) while the

communications device continues to operate; regarding claim 43, a method of communicating

data using a communications device, the communications device including a backplane (202)

coupled to a backplane switch (201) (201) and a plurality of Backplane plane cards (LINE

CARD 1, 2, ..., 8), the backplane switch (201) coupled to at least one network device external to

the communications device, the method comprising: receiving, at the backplane switch (201) , a

first data packet with a first network address assigned to the external network device and a

second data packet with a second network address assigned to one of the backplane (202) boards;

using a network protocol associated with the first and second network addresses to communicate

the first data packet from the backplane switch (201) to the external network device assigned the

first network address and to communicate the second data packet from the backplane switch

(201) to the backplane plane card (200) assigned the second network address using the

backplane (202); regarding claim 44, wherein the network protocol is a standard-based network

protocol; regarding claim 45, wherein the first and second network addresses are Media Access

Control MAC addresses; regarding claim 46, providing a dedicated bandwidth between the

backplane switch (201) and at least one of the Backplane plane cards (LINE CARD 1, 2, ..., 8)

using a backplane bus (202) ; regarding claim 47, receiving from a telephone network a request

to establish a telephone call with the external network device; identifying an Internet Protocol IP

address (column 10, lines 17-31) associated with the external network device; processing data

from the telephone call into digital data packets; associating the data packets with the identified

IP address (column 10, lines 17-31); communicating the data packets from a backplane plane

card (200) to the backplane switch (201) ; and communicating the data packets to the external

network device using the backplane switch (201) ; regarding claim 48, wherein the external

network device is an IP telephone; regarding claim 49, determining whether the data packets

include voice information; and assigning a high priority (column 4, line 63 to column 5, line 9;

column 6, lines 20-25 and lines 50-53) level to the data packets by setting one or more priority

(column 4, line 63 to column 5, line 9; column 6, lines 20-25 and lines 50-53) bits in each data

packet in response to determining that the data packets include voice information; regarding

claim 51, receiving a third data packet from a data network; identifying an Internet Protocol IP

address (column 10, lines 17-31) associated with the third data packet; communicating the third

data packet from a backplane plane card (200) to the backplane switch (201) ; and

communicating the third data packet from the backplane switch (201) to an external network

device assigned the identified IP address (column 10, lines 17-31); regarding claim 52, wherein

at least one of the Backplane plane cards (LINE CARD 1, 2, ..., 8) may be coupled to the

backplane (202) or de-coupled from the backplane (202) while the communications device

continues to operate; regarding claim 53, a backplane switch (201) (201) coupled to a backplane

(202) of a communications device, the communications device having a plurality of Backplane

plane cards (LINE CARD 1, 2, ..., 8) coupled to the backplane (202), the backplane switch (201)

comprising: a plurality of internal ports, each internal port associated with a backplane plane

card (200) and operable to communicate with the associated backplane plane card (200) using

the backplane (202); at least one external port associated with a network device external to the

communications device and operable to communicate with the external network device; and a

processing module coupled to the internal ports and the external port, the processing module

operable to receive a first data packet with a first network address assigned to the network

device, to identify the external port associated with the network device, and to communicate the

first data packet to the external port for communication to the network device using a network

protocol, the processing module further operable to receive a second data packet with a second

network address assigned to a backplane plane card (200), to identify one of the internal ports

associated with the backplane plane card (200), and to communicate the second data packet to

the identified internal port for communication to the backplane plane card (200) using the

network protocol; regarding claim 54, wherein the first and second network addresses are

standard-based network addresses; regarding claim 55, the first and second network addresses

are Media Access Control MAC addresses; and the network protocol is an Ethernet protocol

(column 13, lines 52-57); regarding claim 56, wherein the backplane (202) includes a plurality of

backplane buses (202) , at least one of the backplane buses (202) providing a dedicated

bandwidth between an internal port and an associated backplane plane card (200); regarding

claim 57, wherein the external port is coupled to a network switch serving a plurality of external

network devices and is further operable to communicate the first data packet with the first

network address to the network switch for communication to the network device assigned the

first network address; regarding claim 59, wherein at least one of the Backplane plane cards

(LINE CARD 1, 2, ..., 8) may be coupled to the backplane (202) and de-coupled from the

backplane (202) while the communications device continues to operate. See column 5-13.

Claim Rejections - 35 USC § 103

4.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

5.   Claims 9, 20, 30, 40, 50, 58 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Brown et al. (US 6,747,995) in view of Hejza (US 6,577,628).

Brown et al. discloses the claimed limitations above. Brown et al. does not disclose the

following features: regarding claim 9, wherein the backplane switch is further operable to

examine one or more priority bits in the first data packet, to identify a quality of service level

associated with the priority bits according to IEEE 802.1q, and to communicate the first data

packet according to the identified quality of service level; regarding claim 20, examining one or

more priority bits in the first data packet; identifying a quality of service level associated with the

priority bits according to IEEE 802.1q; and communicating the first data packet from the

backplane switch to the backplane card according to the identified quality of service level;

regarding claim 30, wherein the communication module is further operable to set one or more

priority bits in the second data packet to indicate a quality of service level according to IEEE

802.1q; regarding claim 40, wherein the backplane switch is further operable to examine one or

more priority bits in the first data packet, to identify a quality of service level associated with the

priority bits according to IEEE 802.1q and to communicate the first data packet according to the

identified quality of service level; regarding claim 50, examining one or more priority bits

associated with the first data packet; identifying a quality of service level associated with the

priority bits according to IEEE 802.1q; and communicating the first data packet from the

backplane switch according to the identified quality of service level; regarding claim 58, wherein

the backplane switch is further operable to examine one or more priority bits in the first data

packet, to identify a quality of service level associated with the priority bits according to IEEE

802.1q and to communicate the first data packet according to the identified quality of service

level. Hejza discloses a system for implementing QoS comprising the following features:

regarding claim 9, wherein the backplane switch is further operable to examine one or more

priority bits in the first data packet, to identify a quality of service level associated with the

priority bits according to IEEE 802.1q (column 5, lines 22-38), and to communicate the first data

packet according to the identified quality of service level; regarding claim 20, examining one or

more priority bits in the first data packet; identifying a quality of service level associated with the

priority bits according to IEEE 802.1q (column 5, lines 22-38); and communicating the first data

packet from the backplane switch to the backplane card according to the identified quality of

service level; regarding claim 30, wherein the communication module is further operable to set

one or more priority bits in the second data packet to indicate a quality of service level according

to IEEE 802.1q (column 5, lines 22-38); regarding claim 40, wherein the backplane switch is

further operable to examine one or more priority bits in the first data packet, to identify a quality

of service level associated with the priority bits according to IEEE 802.1q (column 5, lines 22-38) and to communicate the first data packet according to the identified quality of service level; regarding claim 50, examining one or more priority bits associated with the first data packet; identifying a quality of service level associated with the priority bits according to IEEE 802.1q (column 5, lines 22-38); and communicating the first data packet from the backplane switch according to the identified quality of service level; regarding claim 58, wherein the backplane switch is further operable to examine one or more priority bits in the first data packet, to identify a quality of service level associated with the priority bits according to IEEE 802.1q (column 5, lines 22-38) and to communicate the first data packet according to the identified quality of service level. It would have been obvious to one of the ordinary skill in the art at the time of the invention to modify the system of Brown et al., by using the features, as taught by Hejza, in order to provide an efficient data communication system by offering customers various levels of service at different price points. See Hejza, column 2, lines 8-13.
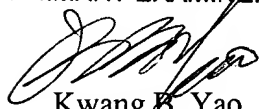
Conclusion

6.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kwang B. Yao whose telephone number is 703-308-7583. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi H Pham can be reached on 703-305-4378. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KWANG BIN YAO
PRIMARY EXAMINER

Kwang B. Yao
August 6, 2004